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Via Electronic Filing

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Mr. William F. Maher
Chief, Wireline Competition Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Ex Parte Communication – USF Contribution Methodology*
CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170 and
NSD File No. L-00-72

Dear Mr. Maher:

This letter is in response to the filing made by the Coalition for Sustainable Universal Service ("CoSUS") on November 19, 2002, arguing that the wireless safe harbor percentage should be increased to 40 percent.¹ Although Verizon Wireless has acknowledged that a modest increase in the safe harbor may be appropriate, nothing in the record supports such a sharp rise in the percentage. Verizon Wireless recommends increasing the wireless safe harbor percentage to a level between 20 to 25 percent of total end-user telecommunications revenues, based on the current record of wireless industry interstate traffic data.

The CoSUS ex parte is flawed because it proposes to base the wireless safe harbor percentage on *wireline* revenue data. In 1998, when the Commission originally established the interim safe harbor, no actual wireless data were available.² The Commission therefore used wireline minutes of use as a proxy for wireless usage, concluding that this represented a "conservative estimate" of wireless use. In the years since the interim safe harbor was adopted, wireless carriers have improved their ability to track their actual interstate usage, and the Cellular Telecommunications and Internet Association ("CTIA") recently filed such data for several wireless carriers.³

¹ See Letter from John Nakahata, Counsel to the Coalition for Sustainable Universal Service, to William F. Maher, Chief, Wireline Competition Bureau, Federal Communications Commission, CC Docket No. 96-45 (Nov. 19, 2002) ("CoSUS Ex Parte Presentation").

² See *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, ¶ 13 (1998).

³ See Letter from Michael Altschul, General Counsel, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, and NSD File No. L-00-72 (Sept. 30, 2002) ("CTIA Ex Parte Presentation").

CoSUS attempts to make much of the rise of wireless “one-rate” plans that bundle local and long distance minutes to suggest that *interstate* wireless traffic has risen substantially.⁴ In reality, however, *all wireless minutes* – local and long distance – have risen as a result of one-rate pricing.⁵ In the process, wireless revenues per minute have declined sharply, from \$0.47 per minute in 1994 to only \$0.12 per minute in 2001.⁶ Consequently, there is no factual basis for CoSUS’ conclusion that the proportion of total wireless minutes and revenues has shifted so dramatically from intrastate to interstate calling.

As the Commission has recognized, wireless long distance service is frequently provided as part of a bundled package of total nationwide minutes.⁷ Under such plans, subscribers are not charged by the minute for long distance service. Rather, such wireless long distance service is included in a price for a “bucket” of minutes and does not generate separate interstate end-user revenue. As a result, allocating total end-user telecommunications revenue based on interstate traffic is reasonable (and, if anything, overestimates the actual amount of revenue that wireless carriers receive from the provision of interstate service).

The data on the record in this proceeding suggest that wireless usage can range between 10% and 28%.⁸ The middle three of CTIA’s five data points were close together, however – ranging from 19.6% to 25%.⁹ The highest data point can be discarded because it was computed using a methodology that likely overstated interstate usage.¹⁰ It did not purport to track actual usage¹¹ and only considered outbound calls. Similarly, the lowest point (TracFone’s at 10%) can be discarded because it represents only prepaid minutes. As TracFone has persuasively argued, the usage patterns of prepaid wireless subscribers differ from those of other wireless subscribers.¹² The TracFone example compellingly shows, however, the need for allowing carriers that can prove actual traffic data to contribute based on their actual usage. While, as CoSUS notes, a small percentage of customers now make most of their long distance calls on

⁴ *CoSUS Ex Parte Presentation* at 2-3.

⁵ *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Seventh Report, FCC 02-179, 17 FCC Rcd 12985, 13008 (2002) (stating that “[a]verage minutes-of-use per subscriber per month (“MOUs”) continued a rapid rise in 2001,” and citing studies that MOUs in the second half of 2001 were 51% higher than during the same period of 2000).

⁶ *Id.* at C-12, Tbl. 9. Total wireless revenues per unit have declined as well, from a high of \$98.02 in 1988 to \$47.37 in 2001.

⁷ *See Federal-State Joint Board on Universal Service, Further Notice of Proposed Rulemaking and Report and Order*, 17 FCC Rcd 3752, ¶ 12 (2002).

⁸ *CTIA Ex Parte*, *supra* note 3.

⁹ *Id.* at nn. 2-5.

¹⁰ *Id.* at n. 6.

¹¹ *See* Verizon Wireless’ proposed methodology for tracking actual interstate minutes. Letter from L. Charles Keller, Counsel to Verizon Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, and NSD File No. L-00-72, 2-3 (Oct. 28, 2002).

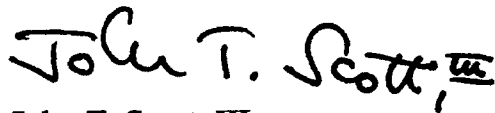
¹² *See, e.g., See, e.g.*, Letter from Mitchell F. Brecher, Counsel to TracFone Wireless, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, and NSD File No. L-00-72, 2 (Nov. 1, 2002)..

their wireless phones,¹³ many wireless customers still use their phones solely for emergency or incidental purposes, generating little or no interstate usage. This reality makes any mandated “one-size-fits-all” approach inappropriate and discriminatory.

Given that the record in this proceeding demonstrates that actual interstate wireless usage is in the 20% to 25% range, it would be error for the Commission to adopt a substantially higher safe harbor, such as the 40% figure CoSUS proposes. Using wireline *revenue* data as a proxy for the wireless safe harbor would be totally arbitrary and unlawful, given that wireless industry data are available. Indeed, CoSUS itself has been critical of the use of wireline data as a proxy for wireless revenues.¹⁴ Although the wireline data may have been the best available in 1998, it is not today.

The November 19 CoSUS ex parte should be recognized for what it is – the latest salvo in CoSUS’s larger battle to avoid its fair share of the USF burden. Verizon Wireless urges the Commission to reject the CoSUS proposal to increase the wireless safe harbor to 40 percent. Instead, Verizon Wireless recommends that the safe harbor be increased to between 20 and 25 percent based on the actual wireless industry data submitted to the Commission by CTIA. In addition, the Commission should ensure that wireless carriers that are capable of measuring their actual interstate traffic are permitted to report their revenues on that basis.

Sincerely,

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive, slightly slanted style. The "III" is written as three distinct vertical strokes.

John T. Scott, III

cc: Marlene H. Dortch, FCC Secretary (via ECFS)
Christopher Libertelli (via email)
Matthew Brill (via email)
Jordan Goldstein (via email)
Daniel Gonzalez (via email)
Carol Matthey (via email)
James Schlichting (via email)
Eric Einhorn (via email)
Diane Law Hsu (via email)

¹³ CoSUS cites the FCC’s FNPRM for the proposition that 16% of wireless customers now make “most” of their long distance calls on their wireless phones. *CTIA Ex Parte Presentation* at 2.

¹⁴ See, e.g., CoSUS comments, CC Docket No. 96-45 (filed April 22, 2002).